

American Federation of State, County & Municipal Employees, AFL-CIO  
125 BARCLAY STREET • NEW YORK, NY 10007-2179

LEGAL DEPARTMENT  
Telephone: 212-815-1450  
Fax: 212-815-1440

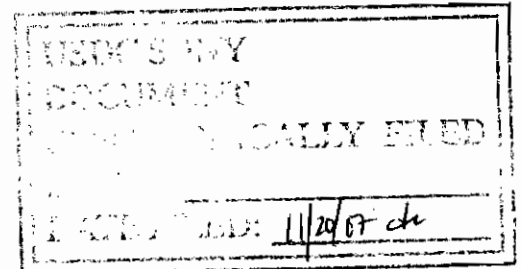
District Council **37**

EDDIE M. DEMMINGS  
*General Counsel*  
MARY J. O'CONNELL  
*Associate General Counsel*  
ROBIN ROACH  
*Senior Assistant General Counsel*

November 15, 2007

**BY FASCIMILE**

The Honorable Barbara S. Jones  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 620  
New York, NY 10007



Re: 07 CV 2836 (BSJ) (RLE)  
Mary E. Sampson v. City of New York, et. al

Dear District Judge Jones:

This office represents defendant District Council 37, AFSCME, AFL-CIO and affiliated Local 768 of DC 37 ("Union Defendants").

By this letter the Union respectfully request an extension of time until December 14, 2007 in which to either answer or otherwise move in regards to the above referenced matter. This request is timely in that our office mailed to the United States Marshal's Service an acknowledgement of receipt of the summons and complaint on or about November 2, 2007. I have not been able to contact the plaintiff regarding the instant request for an extension. This is the first request for any extension made by Union Defendants in this matter.

This action was brought on by service of an amended summons and complaint upon Union Defendants on or about October 19, 2007. In the amended complaint plaintiff alleges discrimination under Title VII, the Age Discrimination in Employment Act, the New York Human Rights Law, and the New York City Human Rights Law. In addition plaintiff alleges "misleading actions" by the Union.

The Union Defendants wish to move to dismiss, or in the alternative, for summary judgment. The basis for the motion is as follows.

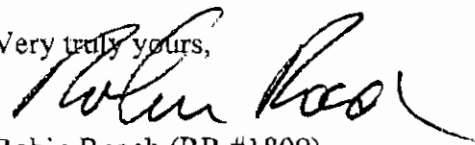
Plaintiff fails to state a claim against Union defendant under Title VII, the Age Discrimination in Employment Act, the New York Human Rights Law, and the New York City Human Rights Law. Plaintiff's complaint alleges discrimination based on race, color and age. However, all of these charges and allegations concern her supervisors and other employer representatives. Nowhere is there any allegation that the Union discriminated against the plaintiff because of race, color or age and nowhere in her complaint does plaintiff allege any facts that can be construed as discrimination on the part of the Union.

Moreover, if plaintiff's claim can be construed as an allegation that the Union breached its duty of fair representation, the action herein is untimely. The allegations against Union Defendants concern conduct which is claimed to have last occurred on October 18, 2006. The claim is barred by the six month statute of limitations utilized by the National Labor Relations Board or the four-month New York State limitations period.

In addition upon information and belief the Plaintiff was a provisional employee with less than two years of service at the time of her alleged termination and therefore not eligible under the terms of the applicable Collective Bargaining Agreement to invoke the grievance procedure.

An answer or responsive pleading is due in this case on November 22, 2007. I respectfully request an extension of time until December 14, 2007 or until such date the court deems appropriate.

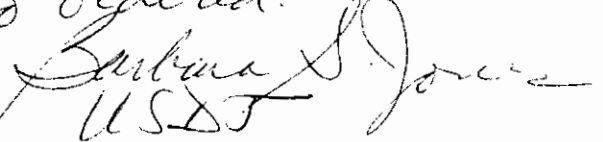
Very truly yours,



Robin Roach (RR #1809)

*Application is granted.*

*So ordered:*



*USDT*

*11/20/07*